

HUMAN SERVICES DEPARTMENT[441]**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 234.6(4) and 239B.4(6), the Department of Human Services proposes to amend Chapter 40, “Application for Aid,” Chapter 41, “Granting Assistance,” and Chapter 65, “Food Assistance Program Administration,” Iowa Administrative Code.

The proposed amendments change the procedures for determining self-employment income for the Family Investment Program (FIP) and for Food Assistance. The amendments will allow applicant and participant households with self-employment income the choice between receiving a standard deduction of 40 percent from their gross self-employment income or having their actual allowable self-employment expenses deducted from their gross self-employment income.

People who select the new standard deduction for self-employment expenses will not incur additional costs which could arise from gathering and preparing documentation of the actual costs of producing the income. Also, the alignment of self-employment income policies across these assistance programs will result in a more efficient process for Department staff who determine eligibility and benefits.

Any interested person may make written comments on the proposed amendments on or before April 10, 2012. Comments should be directed to the Rules Administrator, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because providing a choice of methods for considering self-employment income is a benefit to the persons affected. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 234.12 and 239B.7.

The following amendments are proposed.

ITEM 1. Amend paragraph **40.27(4)“b”** by striking “41.27(2)‘q’” and inserting “41.27(2)‘h’” in lieu thereof.

ITEM 2. Amend subrule 41.27(2) as follows:

41.27(2) Earned income. Earned income is defined as income in the form of a salary, wages, tips, bonuses, commissions earned as an employee, income from Job Corps, or profit from self-employment. Earned income from commissions, wages, tips, bonuses, Job Corps, or salary means the total gross amount irrespective of the expenses of employment. ~~With respect to self-employment, earned income means the net profit from self-employment, defined as gross income less the allowable costs of producing the income.~~ Income shall be considered earned income when it is produced as a result of the performance of services by an individual.

a. Earned income deduction. Each person in the assistance unit whose gross nonexempt earned income, earned as an employee or net profit from self-employment, is considered in determining eligibility and the amount of the assistance grant is entitled to one 20 percent earned income deduction of nonexempt monthly gross earnings. The deduction is intended to include all work-related expenses other than child care. These expenses shall include, but ~~are not be~~ limited to, all of the following: taxes, transportation, meals, uniforms, and other work-related expenses.

b. and c. No change.

- ~~d.~~ Rescinded IAB 6/30/99, effective 9/1/99.
- ~~e.~~ Rescinded IAB 9/11/96, effective 11/1/96.
- ~~f.~~ Reserved.
- ~~g.~~ Reserved.
- ~~h.~~ Reserved.
- ~~i.~~ Reserved.
- ~~j.~~ d. Self-employment. A person is considered self-employed when the person:
- (1) to (3) No change.
- ~~e.~~ Self-employment income. Earned income from self-employment as defined in paragraph 41.27(2) "d" means the net profit from self-employment. "Net profit" means gross self-employment income less:
- (1) Forty percent of the gross income to cover the costs of producing the income, or
 - (2) At the request of the applicant or recipient, actual expenses determined in the manner specified in paragraph 41.27(2) "f."
- ~~k.~~ f. Deduction of self-employment expenses. ~~The~~ When the applicant or recipient requests that actual expenses be deducted, the net profit from self-employment income in a nonhome-based operation shall be determined by deducting only the following expenses that are directly related to the production of the income:
- (1) to (8) No change.
- ~~l.~~ When the client is renting out apartments in the client's home, the following shall be deducted from the gross rentals received to determine the profit:
- (1) Shelter expense in excess of that set forth on the chart of basic needs components in subrule 41.28(2) for the eligible group.
 - (2) That portion of expense for utilities furnished to tenants which exceeds the amount set forth on the chart of basic needs components in subrule 41.28(2).
 - (3) Ten percent of gross rentals to cover the cost of upkeep.
- ~~m.~~ In determining profit from furnishing board, room, operating a family life home, or providing nursing care, the following amounts shall be deducted from the payments received:
- (1) \$41 plus an amount equivalent to the monthly maximum food assistance program benefit for a one-member household for a boarder and roomer or an individual in the home to receive nursing care, or \$41 for a roomer, or an amount equivalent to the monthly maximum food assistance program benefit for a one-member household for a boarder.
 - (2) Ten percent of the total payment to cover the cost of upkeep for individuals receiving a room or nursing care.
- ~~n.~~ g. Child care income. Gross income from providing child care in the applicant's or recipient's own home shall include the total payment(s) received for the service and any payment received due to the Child Nutrition Amendments of 1978 for the cost of providing meals to children. ~~In determining profit from providing child care services in the applicant's or recipient's own home, 40 percent of the total gross income received shall be deducted to cover the costs of producing the income, unless the individual requests to have expenses in excess of the 40 percent considered. When the applicant or recipient requests to have actual expenses considered, profit shall be determined in the same manner as specified in 41.27(2) "o."~~
- ~~o.~~ In determining profit for a self-employed enterprise in the home other than providing room and board, renting apartments or providing child care services in the home, the following expenses shall be deducted from the income received:
- (1) The cost of inventories and supplies purchased that are required for the business, such as items for sale or consumption and raw materials.
 - (2) Wages, commissions, and mandated costs relating to the wages for employees.
 - (3) The cost of machinery and equipment in the form of rent; or the interest on mortgage or contract payment; and any insurance on such machinery equipment.
 - (4) Ten percent of the total gross income to cover the costs of upkeep when the work is performed in the home.

~~(5) Any other direct cost involved in the production of the income, except the purchase of capital equipment and payment on the principal of loans for capital equipment and payment on the principal of loans for capital assets and durable goods or any cost of depreciation.~~

~~p. Rescinded IAB 6/30/99, effective 9/1/99.~~

~~q. h. Income verification.~~ The applicant or recipient shall cooperate in supplying verification of all earned income and of any change in income, as defined at rule 441—40.21(239B). A self-employed individual shall keep any records necessary to establish eligibility.

ITEM 3. Amend subrule 65.29(1) as follows:

65.29(1) Self-employment income. “Self-employment income” means the net profit from self-employment.

a. Determination of net profit. “Net profit from self-employment” means gross self-employment income less:

(1) A standard amount of 40 percent, as allowed by the state’s family investment (TANF) program,
or

(2) At the household’s request, actual allowable expenses as specified in federal regulations at 7 CFR 273.11 as amended to January 1, 2011.

b. Uneven proration of self-employment income. Once a household with self-employment income is determined eligible ~~based on its monthly net self-employment income~~, the household has the following options for computation of the benefit level:

~~a. (1)~~ Using the same ~~net~~ monthly self-employment income amount which was used to determine eligibility, or

~~b. (2)~~ Unevenly prorating the household’s annual self-employment income over the period for which the household’s self-employment income was averaged to more closely approximate the time when the income is actually received. If this option is chosen, the self-employment income assigned in any month together with other income and deductions at the time of certification cannot result in the household’s exceeding the maximum monthly net income eligibility standards for the household’s size.